

**APPROVED MINUTES  
SUNNYVALE CITY COUNCIL  
TUESDAY, OCTOBER 7, 2008**

**5:30 P.M. SPECIAL COUNCIL MEETING (Study Session)** - Public Financing of City Council Elections

**7 P.M. COUNCIL MEETING**

**SALUTE TO THE FLAG**

Mayor Spitaleri led the salute to the flag.

**ROLL CALL**

**PRESENT:**

Mayor Anthony Spitaleri  
Vice Mayor Melinda Hamilton  
Councilmember John Howe  
Councilmember Otto Lee  
Councilmember Christopher Moylan  
Councilmember David Whittum

**ABSENT:**

Councilmember Swegles (excused)

**STAFF PRESENT:**

City Manager Amy Chan  
Assistant City Manager Robert Walker  
City Attorney David Kahn  
Director of Community Development Hanson Hom  
Director of Public Works Marvin Rose  
Finance Manager – Budget Grace Leung  
Revenue Systems Supervisor Tim Kirby  
Director of Parks and Recreation Dave Lewis  
Superintendent of Recreation Nancy Bolgard Steward  
City Clerk Gail Borkowski

**CLOSED SESSION REPORT FOR SEPTEMBER 30, 2008**

Vice Mayor Hamilton reported that the City Council met in Closed Session on September 30, 2008 regarding: Title: Conference with Real Property Negotiator, pursuant to Government Code 54596.8 Properties: Onizuka Air Force Station; Negotiating Parties: Amy Chan (City); Department of Defense; Under Negotiation: Method of Conveyance of Surplus Federal Property

Vice Mayor Hamilton reported no direction was given and no action was taken.

**PUBLIC ANNOUNCEMENTS**

Councilmember Howe requested that Councilmember Swegles' absence be excused as he had a family emergency.

Mayor Spitaleri agreed to excuse Councilmember Swegles' absence.

*Approved by Council on October 14, 2008*

## **CONSENT CALENDAR**

Councilmember Howe pulled Item 1.B.

Vice Mayor Hamilton moved and Councilmember Howe seconded to approve the Consent Calendar with the exception of Item 1.B.

VOTE: 6-0 (Councilmember Swegles absent)

### **1.A. Approval of Information/Action Items – Council Directions to Staff**

#### **Fiscal Items**

#### **1.B. RTC 08–295      List of Claims and Bills Approved for Payment by the City Manager – List No. 421**

Councilmember Howe verified with Finance Manager Grace Leung that the payment listed on page 5 for the Sunnyvale Downtown Association was incorrectly identified on the report and has since been corrected. The payment listed for the Business Development Fees is a fee that the City collects and then returns to the association.

Public comments opened at 7:10 p.m.

No speakers.

Public comments closed at 7:10 p.m.

MOTION: Councilmember Howe moved and Councilmember Lee seconded to approve staff recommendation: Council reviewed the attached lists of bills.

VOTE: 6-0 (Councilmember Swegles absent)

#### **1.C. RTC 08–293      Transmittal of Performance Results Audit of FY 2006/2007 for Three Department Management and Support Services Programs and Associated Citywide Findings**

Staff Recommendation: Council receives the audit reports and concurs with management's acceptance of recommendations.

#### **1.D. RTC 08–298      Amendment of Agreement for Program Management Services between the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) and Eisenberg, Oliveri and Associates (EOA, Inc.)**

Staff Recommendation:

- Council approves an extension of contract agreement #A2455A with the program management contractor, EOA, Inc. through June 30, 2009, with a modified not-to-exceed price of \$2,953,500 for fiscal year 2008/09; and
- Council delegates authority to execute contracts on behalf of SCVURPPP to the City Manager or his/her designated agent, and provide proper notification to the Management Committee of SCVURPPP.

**Other Items**

- 1.E. ORDINANCE No. 2876-08**      **Adoption of Ordinance No. 2876-08 Amending Section 19.44.020 (Types of Signs and Related Regulations) and Section 19.44.120 (Temporary Commercial Signs) of Chapter 19.44 (Signs) of Title 19 (Zoning) of the Sunnyvale Municipal Code Pertaining to Signs**

Staff Recommendation: Council approves the second reading of Ordinance No. 2876-08.

- 1.F. ORDINANCE NO. 2877-08**      **Adoption of Ordinance No. 2877-08 Amending 19.12.070 ("F"), 19.12.140 ("M"), 19.12.170 ("P") and 19.12.200 ("S") (Definitions), Table 19.46.045 (Parking Management Plans), Table 19.46.050 (Parking Requirements) and 19.82.020 (Miscellaneous Plan Permits) of Title 19 (Zoning) of the Sunnyvale Municipal Code Related to Parking Standards**

Staff Recommendation: Council approves the second reading of Ordinance No. 2877-08.

- 1.G. ORDINANCE NO. 2878-08**      **Adoption of Ordinance No. 2878-08 Awarding Nonexclusive Franchise to Jasraj Bhata (FKA Bikram Jeet Singh), doing business as Yellow Cab Co. Peninsula, Inc.**

Staff Recommendation: Council approves the second reading of Ordinance No. 2878-08.

- 1.H. ORDINANCE NO. 2879-08**      **Adoption of Ordinance No. 2879-08 Awarding Nonexclusive Franchise to Larry Silva, doing business as Yellow Checker Cab Co., Inc. doing business as Checker Cab of Silicon Valley**

Staff Recommendation: Council approves the second reading of Ordinance No. 2879-08.

- 1.I. ORDINANCE NO. 2880-08**      **Adoption of Ordinance No. 2880-08 Awarding Nonexclusive Franchise to Jorawar Singh, doing business as A Orange Cab, Inc.**

Staff Recommendation: Council approves the second reading of Ordinance No. 2880-08.

**STAFF RESPONSES TO PRIOR PUBLIC COMMENTS**

None.

**PUBLIC COMMENTS**

Mei-Ling Stefan passed out materials to Council. Stefan spoke about her concerns over cellular towers and cell tower regulations.

Councilmember Howe stated he will sponsor a study issue on cell towers and meeting the requirements of use permits and permits in general. Vice Mayor Hamilton and Councilmember Whittum stated they will co-sponsor the study issue.

Mayor Spitaleri disclosed he met with Stefan and other citizens previously and will also co-sponsor this study issue.

**PUBLIC HEARINGS/GENERAL BUSINESS**

**2. RTC 08-297 Proposed Mobile Home Park Water Rate Structure and Approval of Budget Modification No. 15**

Revenue Systems Supervisor Tim Kirby presented the staff report.

Councilmember Whittum inquired as to what agricultural uses the City would use reclaimed water for and Supervisor Kirby stated the City does not currently have any agricultural users but it is in place in case the City should have such a user.

Public hearing opened at 7:17 p.m.

Jeff Moore stated he is in favor of this proposal. Moore stated he is a managing partner of several mobile home communities. Moore spoke of the need to conserve water as it is a precious commodity. Moore stated he supports installing water meters at their three Sunnyvale mobile home communities.

Public hearing closed at 7:20 p.m.

MOTION: Councilmember Howe moved and Councilmember Lee seconded to approve Alternative 1: Council directs staff to schedule a mid-year utility rate public hearing on Mobile Home Park Water Rates, proceed with Proposition 218 noticing of the affected customers, and approve Budget Modification No. 15.

Councilmember Howe stated this is an excellent opportunity to reduce the City's consumption of water.

Councilmember Lee stated water conservation needs to be encouraged and placing these meters will create huge savings.

VOTE: 6-0 (Councilmember Swegles absent)

**3. RTC 08-283 Consider Impacts of Providing Sunnyvale Residents Discounts to City Recreation Programs for Active Duty Military and Their Families**

Superintendent of Recreation Nancy Bolgard-Steward presented the staff report.

Councilmember Moylan stated the minority view from the Parks and Recreation Commission prompted some questions. Councilmember Moylan verified with Superintendent Bolgard-Steward that the City's administrative policy states that City of Sunnyvale employees receive the Sunnyvale resident discount regardless of where they live.

Councilmember Moylan questioned whether staff supports extending the resident discount to neighboring public safety employees. Superintendent Bolgard-Steward stated staff was asked to study one specific scenario; however, if Council wished to expand that study to include additional people, then staff would need to explore the financial impact to the City.

Director of Parks and Recreation David Lewis explained that the Parks and Recreation commissioner who was in the minority questioned whether public safety employees, teachers, nurses and others should also receive discounts. Councilmember Moylan stated it

appeared that the commission member who was in the minority had a concern over opening the door to every professional person within Sunnyvale and outside Sunnyvale as well. Councilmember Moylan asked staff for their opinion on that concern and Superintendent Bolgard-Steward agreed that the passage of this discount will open the door to include other groups.

Public hearing opened at 7:26 p.m.

Richard Oliver, Vice Chair of the Parks and Recreation Commission, stated the commission voted 4 – 1 in favor of Council accepting the staff recommendation. Oliver explained that the minority view felt that the study issue originators might be biased because of their personal military connections.

Public hearing closed at 7:28 p.m.

Councilmember Howe verified with staff that they plan to collect data as to who will use this discount if approved. Councilmember Howe inquired as to how long it would take to obtain meaningful data and Superintendent Bolgard-Steward responded that staff collects data over a fiscal year.

Mayor Spitaleri explained that active military have a limited income compared to other professions which makes the need for the discount even greater and additionally, the facilities available to active military have been reduced. Mayor Spitaleri stated these two reasons were the driving force behind this study issue.

Councilmember Lee stated he agrees with the comments made by Mayor Spitaleri and offered personal examples of the salary differential between active military personnel and the general public in this area. Councilmember Lee stated families of the active military would also be able to use this discount during the time a family member may be deployed.

MOTION: Councilmember Lee moved and Councilmember Whittum seconded to approve Alternative 1: Council directs staff to grant all active duty military and their immediate families resident rates and reservation advantages for recreation activities, programs and services. Council authorizes this program will remain in place unless the Recreation Division identifies a significant impact to the Community Recreation Fund and at that time would return to Council for additional direction.

Councilmember Howe offered a friendly amendment not to limit staff to when they come back if they see a fiscal impact sooner, but after two fiscal years, staff will report to Council with data on how the program is working.

Friendly amendment accepted.

Restated MOTION: Councilmember Lee moved and Councilmember Whittum seconded to approve Alternative 1: Council directs staff to grant all active duty military and their immediate families resident rates and reservation advantages for recreation activities, programs and services. Council authorizes this program will remain in place unless the Recreation Division identifies a significant impact to the Community Recreation Fund and at that time would return to Council for additional direction

**with** Council directs staff to return to Council after two fiscal years with meaningful data on how the program is working; however, staff shall return to Council earlier should a fiscal

impact be identified.

Councilmember Moylan stated that approval of this discount opens the door for other groups to request discounts. Councilmember Moylan stated he is concerned about the appearance of bias as this motion appears to be self-serving. Councilmember Moylan stated approval of this discount will place the City in an impossible situation the next time a group requests a discount. Either way, Council will look bad when that happens, no matter what is or is not approved. This is an issue that should not be opened.

Councilmember Whittum stated active military are in an unusual situation and serve in difficult positions with constant upheaval of their lives. Councilmember Whittum stated that resident rates recover the City's costs and if this effort generates more usage and maintains cost recovery, then it is a positive step forward.

Vice Mayor Hamilton stated she has not served in the military; however, she supports this motion because bases are closing and military wages are low. Vice Mayor Hamilton stated as long as this discount provides cost recovery, she does not see any issue with approving this motion. Vice Mayor Hamilton expressed that she does see a difference between teachers and the military and would freely express that if the situation arose where she needed to state that.

Councilmember Howe stated he supports the motion and agrees with the statements made about active military and their families. Councilmember Howe stated he has not served in the military, so it does not serve him to vote for this motion; however, he supports this motion.

VOTE: 5-1 (Councilmember Moylan dissented and Councilmember Swegles absent)

4. **ORDINANCE NO. 2875-08**      **Adoption of Ordinance No. 2875-08 Amending Certain Sections and Tables of Chapter 19.12 (Definitions); Chapter 19.31 (Building Heights, Lot Coverages and Floor Area Ratios); and Chapter 19.34 (Front, Side and Rear Yards) and Chapter 19.38 (Required Facilities), Chapter 19.56 (Solar Access) and Chapter 19.82 (Miscellaneous Plan Permit) of Title 19 (Zoning) of the Sunnyvale Municipal Code Pertaining to Solar Energy Policies**

City Attorney David Kahn presented the staff report. City Attorney Kahn stated although this is a second reading for the ordinance, this item is listed as a public hearing item because it did not receive a unanimous vote during the first reading.

Public hearing opened at (time not recorded).

No speakers.

Public hearing closed at (time not recorded).

City Clerk Gail Borkowski read the title of the ordinance into the record.

MOTION: Councilmember Howe moved and Vice Mayor Hamilton seconded to approve staff recommendation: Council approves the second reading of Ordinance No. 2875-08.

VOTE: 5-1 (Councilmember Whittum dissented and Councilmember Swegles absent)

## **NON-AGENDA ITEMS & COMMENTS**

- COUNCIL:** Councilmember Howe requested the mayor appoint a Council committee to work on the agenda for the last meeting in which City Manager Chan will attend.
- Mayor Spitaleri stated he would like to be on the committee. Vice Mayor Hamilton and Councilmember Howe agreed to join Mayor Spitaleri on the committee.
- Councilmember Lee announced that November 4, 2008 is election day. Councilmember Lee announced that absentee ballots have been mailed out and should be received by October 20, 2008.
- Mayor Spitaleri announced the Sunnyvale Pet Parade will be held on October 26, 2008.
- Vice Mayor Hamilton announced an upcoming pancake breakfast at Fire Station 2 in Sunnyvale.
- Councilmember Lee closed the meeting in honor of Mary Herzog and called for a moment of silence.

**STAFF:** None.

## **INFORMATION ONLY REPORTS/ITEMS**

- Tentative Council Meeting Agenda Calendar
- Draft Minutes of Heritage Preservation Commission Meeting of September 3, 2008
- Draft Minutes of Child Care Advisory Board meeting of September 15, 2008
- Draft Minutes of Bicycle and Pedestrian Commission Meeting of September 18, 2008
- RTC 08-296 Opportunity for Council to appeal decisions of the Planning Commission of September 22, 2008 and the Administrative Hearing of September 24, 2008
- Draft Summary Minutes of the Joint Council and Board of Library Trustees Study Session of September 30, 2008

## **ADJOURNMENT**

Mayor Spitaleri adjourned the meeting in honor of Mary Herzog at 7:42 p.m.

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City Clerk

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Date